

**ASSEMBLY BILL**

**No. 718**

**Introduced by Assembly Member Pacheco**

February 19, 2003

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An act to amend Sections 1003, 1301, 4000, 9283, 9285, 13113, 17100, and 17304 of the Elections Code, and to amend Sections 6253.5 and 36512 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 718, as introduced, Pacheco. Elections: municipal elections.

(1) Existing law requires a special municipal election to fill a city council vacancy or certain vacancies in the office of mayor to be held on an established election date not less than 114 days from the call of the special election.

This bill would permit those elections to be held on dates other than an established election date, with certain requirements, and would also permit any vacancy of an elected city office to be filled at that election.

(2) Existing law requires, with certain exceptions, a general municipal election to be held on the second Tuesday in April of even-numbered years or the first Tuesday after the first Monday in March of odd-numbered years.

This bill, instead, would require a general municipal election to be held on any established election date or on the second Tuesday of April in each odd-numbered year. This bill would require a general municipal election held on the same date as a statewide election to be consolidated with that statewide election, thereby imposing a state-mandated local program.

(3) Existing law provides that several types of elections may be held wholly by mail, with certain conditions.

This bill would, in addition, permit a municipal election that is held to submit a measure or measures to a vote of the voters of a city to be held wholly by mail.

(4) Existing law requires a written argument relating to a city ballot measure to be signed by the person or persons submitting the argument. Existing law also allows a person or persons who filed an argument relating to a city ballot measure to file a rebuttal argument to arguments that oppose their position.

This bill would clarify that arguments must be signed by the author or authors of the argument. It would permit rebuttal arguments to be signed by an author of the original argument, a combination of the authors of the original argument, or by all the authors of the original argument. It would also require rebuttal arguments to be signed only by the author or authors of the original argument and would require that rebuttal arguments contain no more than 5 signatures, thereby creating a state-mandated local program.

(5) Existing law provides that the order of candidates' names on the ballot of a special district, school district, charter city, or other local government body election, occurring on other than one of the 4 major election dates is determined by a special randomized alphabet drawing conducted by the Secretary of State, with certain requirements.

This bill would require the randomized alphabet drawn for purposes of the first election held by a charter city that holds 2 elections in the same year which occur on other than one of the 4 major election dates, to be used for both of those elections, thereby creating a state-mandated local program.

(6) Existing law requires the preservation of nomination documents and signatures in lieu of filing fee petitions.

This bill would provide that those items are not public records and not open to public inspection.

(7) Existing law requires the preservation of certain items related to a state or local election, and provides that voters may inspect these items at all times following the commencement of the official canvass of the votes of that election.

This bill would provide that items which contain signatures of voters are not open to inspection.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund



to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1003 of the Elections Code is amended  
2 to read:  
3 1003. This chapter shall not apply to the following:  
4 (a) Any special election called by the Governor.  
5 (b) Elections held in chartered cities or chartered counties in  
6 which the charter provisions are inconsistent with this chapter.  
7 (c) School governing board elections consolidated pursuant to  
8 Section 1302.2 or initiated by petition pursuant to Section 5091 of  
9 the Education Code.  
10 (d) Elections of any kind required or permitted to be held by a  
11 school district located in a chartered city or county when the  
12 election is consolidated with a regular city or county election held  
13 in a jurisdiction that includes 95 percent or more of the school  
14 district's population.  
15 (e) County, municipal, district, and school district initiative,  
16 referendum, or recall elections.  
17 (f) Any election conducted solely by mailed ballot pursuant to  
18 Division 4 (commencing with Section 4000).  
19 (g) Elections held pursuant to Article 1 (commencing with  
20 Section 15100) of Chapter 1, or pursuant to Article 4 (commencing  
21 with Section 15340) of Chapter 2 of, Part 10 of the Education  
22 Code.  
23 (h) *A special municipal election held pursuant to Section*  
24 *36512 of the Government Code to fill a vacancy in an elected city*  
25 *office.*  
26 SEC. 2. Section 1301 of the Elections Code is amended to  
27 read:

1 1301. (a) Except as required by Section 57379 of the  
2 Government Code, and except as provided in subdivision (b), a  
3 general municipal election shall be held on ~~the second Tuesday in~~  
4 ~~April of even-numbered years, or on the first Tuesday after the first~~  
5 ~~Monday in March of odd-numbered years~~ *an established election*  
6 *date pursuant to Section 1000 or the second Tuesday of April in*  
7 *each odd-numbered year. If a general municipal election is held on*  
8 *the same date as a statewide election, that general municipal*  
9 *election shall be consolidated with the statewide election pursuant*  
10 *to Part 3 (commencing with Section 10400) of Division 10.*

11 (b) (1) Notwithstanding subdivision (a), a city council may  
12 enact an ordinance, pursuant to Division 10 (commencing with  
13 Section 10000), requiring its general municipal election to be held  
14 on the same day as the statewide direct primary election, the day  
15 of the statewide general election, or on the day of school district  
16 elections as set forth in Section 1302. Any ordinance adopted  
17 pursuant to this subdivision shall become operative upon approval  
18 by the board of supervisors.

19 (2) In the event of consolidation, the general municipal election  
20 shall be conducted in accordance with all applicable procedural  
21 requirements of this code pertaining to that primary, general, or  
22 school district election, and shall thereafter occur in consolidation  
23 with that election.

24 (c) If a city adopts an ordinance described in subdivision (b),  
25 the municipal election following the adoption of the ordinance and  
26 each municipal election thereafter shall be conducted on the date  
27 specified by the city council, in accordance with subdivision (b),  
28 unless the ordinance in question is later repealed by the city  
29 council.

30 (d) If the date of a general municipal election is changed  
31 pursuant to subdivision (b), at least one election shall be held  
32 before the ordinance, as approved by the board of supervisors, may  
33 be subsequently repealed or amended.

34 SEC. 3. Section 4000 of the Elections Code is amended to  
35 read:

36 4000. ~~Any~~ A local, special, or consolidated election may be  
37 conducted wholly by mail provided that all of the following  
38 conditions apply:

39 (a) The governing body of the local agency authorizes the use  
40 of mailed ballots for the election.

(b) The election does not occur on the same date as a statewide direct primary election or statewide general election.

(c) The election is one of the following:

(1) An election in which no more than 1,000 registered voters are eligible to participate.

(2) A maximum property tax rate election as provided for in Section 2287 of the Revenue and Taxation Code.

(3) An election on a measure or measures restricted to (A) the imposition of special taxes, or (B) expenditure limitation overrides, or (C) both (A) and (B), in a city, county, or special district with 5,000 or less registered voters calculated as of the time of the last report of registration by the county elections official to the Secretary of State.

(4) An election on the issuance of a general obligation water bond in accordance with Section 12944.5 of the Water Code.

(5) An election of the Directors of the Monterey Peninsula Water Management District as authorized in Section 122 of Chapter 527 of the Statutes of 1977, known as the Monterey Peninsula Water Management District Law.

(6) An election of the Aliso Water Management Agency, or its affected member agencies, pursuant to Sections 13416 and 13417 of the Water Code.

(7) An election of the San Jacinto Mountain Area Water Study Agency pursuant to Sections 13416 and 13417 of the Water Code.

(8) An election of the San Lorenzo Valley Water District pursuant to Sections 13416 and 13417 of the Water Code.

(9) ~~Any~~ An election or assessment ballot proceeding required or authorized by Article XIII C or XIII D of the California Constitution. However, when an assessment ballot proceeding is conducted by mail pursuant to this section, the following rules ~~shall~~ apply:

(A) The proceeding shall be denominated an “assessment ballot proceeding” rather than an election.

(B) Ballots shall be denominated “assessment ballots.”

(10) *A municipal election that is held to submit a measure or measures to a vote of the voters of a city.*

SEC. 4. Section 9283 of the Elections Code is amended to read:

9283. A ballot argument ~~shall~~ *may* not be accepted under this article unless accompanied by the printed name and signature or

1 printed names and signatures of the ~~person or persons~~ *author or*  
2 *authors* submitting it, or, if submitted on behalf of an organization,  
3 the name of the organization and the printed name and signature  
4 of at least one of its principal officers *who is the author of the*  
5 *argument*.

6 No more than five signatures ~~shall~~ *may* appear with any  
7 argument submitted under this article. ~~In case any~~ *If an* argument  
8 is signed by more than five persons, the signatures of the first five  
9 shall be printed.

10 SEC. 5. Section 9285 of the Elections Code is amended to  
11 read:

12 9285. (a) (1) ~~If any~~ *a* person submits an argument against a  
13 city measure, and an argument has been filed in favor of the city  
14 measure, the elections official shall immediately send copies of  
15 that argument to the ~~persons filing~~ *author or authors of* the  
16 argument in favor of the city measure. The ~~persons filing~~ *author*  
17 *or authors of* the argument in favor of the city measure may  
18 prepare and submit a rebuttal argument not exceeding 250 words.  
19 The elections official shall send copies of the argument in favor of  
20 the measure to the ~~persons filing~~ *author or authors of* the argument  
21 against the city measure, who may prepare and submit a rebuttal  
22 to the argument in favor of the city measure not exceeding 250  
23 words. ~~The rebuttal~~

24 (2) *Rebuttal arguments shall be signed by an author of the*  
25 *original argument, a combination of the authors of the original*  
26 *argument, or by all the authors of the original argument. Rebuttal*  
27 *arguments may not be signed by a person who did not sign the*  
28 *original argument. Rebuttal arguments may not contain more than*  
29 *five signatures.*

30 (3) *Rebuttal arguments shall be filed with the elections official*  
31 *not more than 10 days after the final date for filing direct*  
32 *arguments. Rebuttal arguments shall be printed in the same*  
33 *manner as the direct arguments. Each rebuttal argument shall*  
34 *immediately follow the direct argument it seeks to rebut.*

35 (b) Subdivision (a) ~~shall only apply~~ *applies only* if, not later  
36 than the day on which the legislative body calls an election, the  
37 legislative body, adopts its provisions by majority vote, in which  
38 case subdivision (a) ~~shall apply~~ *applies* at the next ensuing  
39 municipal election and at each municipal election thereafter,

1 unless later repealed by the legislative body in accordance with the  
2 procedures of this subdivision.

3 SEC. 6. Section 13113 of the Elections Code is amended to  
4 read:

5 13113. (a) In the case of an election of candidates in a special  
6 district, school district, charter city (whose charter does not  
7 provide to the contrary), or other local government body,  
8 occurring on other than one of the four major election dates  
9 specified in subdivision (b) of Section 13112, the official  
10 responsible for conducting the election shall, at the same time that  
11 the election is called, notify the Secretary of State by registered  
12 mail of the date of the election, the date of the close of filing, and  
13 the last possible date for filing in the event there is an extension of  
14 filing due to an incumbent failing to file. The Secretary of State  
15 shall conduct a randomized alphabet drawing on the first weekday  
16 following the last possible day of filing for such an election  
17 according to subdivision (a) of Section 13112.

18 (b) If two or more drawings for local government elections  
19 would occur on the same date, the Secretary of State may use a  
20 single randomized alphabet drawing for all of these elections. The  
21 Secretary of State shall communicate the results of the drawing by  
22 registered mail to each respective official responsible for  
23 conducting the election who shall use it to determine the order on  
24 the ballot of all candidates' names.

25 (c) All drawings held pursuant to this section shall be open to  
26 the public.

27 (d) *If a charter city holds two elections in the same year that*  
28 *meet the requirements of subdivision (a), then the randomized*  
29 *alphabet drawn pursuant to Section 13312 for the first election*  
30 *shall be used to determine the order on the ballot of all candidates'*  
31 *names for both elections.*

32 SEC. 7. Section 17100 of the Elections Code is amended to  
33 read:

34 17100. (a) All nomination documents and signatures in lieu  
35 of filing fee petitions filed in accordance with this code shall be  
36 held by the officer with whom they are filed during the term of  
37 office for which they are filed and for four years after the  
38 expiration of the term.

39 (b) Thereafter, the documents and petitions shall be destroyed  
40 as soon as practicable unless they either are in evidence in some

1 action or proceeding then pending or unless the elections official  
2 has received a written request from the Attorney General, the  
3 Secretary of State, the Fair Political Practices Commission, a  
4 district attorney, a grand jury, or the governing body of a county,  
5 city and county, or district, including a school district, that the  
6 documents and petitions be preserved for use in a pending or  
7 ongoing investigation into election irregularities, the subject of  
8 which relates to the placement of a candidate's name on the ballot,  
9 or in a pending or ongoing investigation into a violation of the  
10 Political Reform Act of 1974 (Title 9 (commencing with Section  
11 81000) of the Government Code).

12 *(c) Public access to the items described in subdivision (a) shall*  
13 *be restricted in accordance with subdivision (a) of Section 6253.5*  
14 *of the Government Code.*

15 SEC. 8. Section 17304 of the Elections Code is amended to  
16 read:

17 17304. (a) The following provisions shall apply to all state or  
18 local elections not provided for in subdivision (a) of Section  
19 17303. An election is not deemed a state or local election if votes  
20 for candidates for federal office may be cast on the same ballot as  
21 votes for candidates for state or local office.

22 (b) The elections official shall preserve the package or  
23 packages containing the following items for a period of six  
24 months:

- 25 (1) Two tally sheets.
- 26 (2) The copy of the index used as the voting record.
- 27 (3) The challenge lists.
- 28 (4) The assisted voters list.

29 (c) All voters may inspect the contents of the package or  
30 packages at all times following commencement of the official  
31 canvass of the votes, *except that items which contain signatures of*  
32 *voters shall be restricted in accordance with subdivision (a) of*  
33 *Section 6253.5 of the Government Code.*

34 (d) If a contest is not commenced within the six-month period,  
35 or if a criminal prosecution involving fraudulent use, marking or  
36 falsification of ballots, or forgery of absent voters' signatures is  
37 not commenced within the six-month period, either of which may  
38 involve the vote of the precinct from which voted ballots were  
39 received, the election official may have the packages destroyed or  
40 recycled.



SEC. 9. Section 6253.5 of the Government Code is amended to read:

6253.5. (a) Notwithstanding Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, ~~and~~ recall petitions, *and nomination documents and signatures in lieu of filing fee petitions*, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions ~~shall not be deemed to be~~ *are not* public records and ~~shall~~ *are* not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor. However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney ~~shall be permitted to~~ *may* examine the material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, the examination shall commence not later than 21 days after certification of insufficiency.

~~(a)~~

(b) As used in this section, “petition” ~~shall mean~~ *means* any petition to which a registered voter has affixed his or her signature.

~~(b)~~

(c) As used in this section “proponents of the petition” means the following:

(1) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she

1 prepare a title and summary of the chief purpose and points of the  
2 proposed measure.

3 (2) For other initiative and referenda on measures, the person  
4 or persons who publish a notice of intention to circulate petitions,  
5 or, where publication is not required, who file petitions with the  
6 elections official.

7 (3) For recall measures, the person or persons defined in  
8 Section 343 of the Elections Code.

9 (4) For petitions circulated pursuant to Section 5091 of the  
10 Education Code, the person or persons having charge of the  
11 petition who submit the petition to the county superintendent of  
12 schools.

13 (5) For petitions circulated pursuant to Article 1 (commencing  
14 with Section 35700) of Chapter 4 of Part 21 of the Education Code,  
15 the person or persons designated as chief petitioners under Section  
16 35701 of the Education Code.

17 (6) For petitions circulated pursuant to Part 46 (commencing  
18 with Section 74000) of the Education Code, the person or persons  
19 designated as chief petitioners under Sections 74102, 74133, and  
20 74152 of the Education Code.

21 SEC. 10. Section 36512 of the Government Code is amended  
22 to read:

23 36512. (a) If a vacancy occurs in an appointive office  
24 provided for in this chapter, the council shall fill the vacancy by  
25 appointment. A person appointed to fill a vacancy holds office for  
26 the unexpired term of the former incumbent.

27 (b) If a vacancy occurs in an elective office provided for in this  
28 chapter, the council shall, within 30 days from the commencement  
29 of the vacancy, either fill the vacancy by appointment or call a  
30 special election to fill the vacancy. The special election shall be  
31 held on *the date of the next regular municipal election*, the next  
32 regularly established election date, *or on a date established for a*  
33 *special election to be held for the purpose of filling a vacancy in*  
34 *an elected city office* not less than 114 days from the call of the  
35 special election. A person appointed or elected to fill a vacancy  
36 holds office for the unexpired term of the former incumbent.

37 (c) Notwithstanding subdivision (b) and Section 34902, a city  
38 may enact an ordinance which:

39 (1) Requires that a special election be called immediately to fill  
40 every city council vacancy ~~and~~, the office of mayor designated



pursuant to Section 34902, *and any other vacancy in an elected city office*. The ordinance shall provide that the special election shall be held on *the date of the next regular municipal election*, the next regularly established election date, *or on a date established for a special election to be held for the purpose of filling a vacancy in an elected city office* not less than 114 days from the call of the special election.

(2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section 34902 when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on *the date of the next regular municipal election*, the next regularly established election date, *or on a date established for a special election to be held for the purpose of filling a vacancy in an elected city office* not less than 114 days from the filing of the petition. A governing body which has enacted such an ordinance may also call a special election pursuant to subdivision (b) without waiting for the filing of a petition.

(3) Provides that a person appointed to fill a vacancy on the city council *and the office of mayor designated pursuant to Section 34902* holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next ~~regularly established election or regularly scheduled municipal election to be held throughout the city~~ *regular municipal election, the date of the next regular election as established in Section 1000, or on a date established for a special election to be held for the purpose of filling a vacancy in an elected city office* not less than 114 days from the call of the special election.

(d) (1) Notwithstanding subdivision (b) and Section 34902, an appointment shall not be made to fill a vacancy on a city council if the appointment would result in a majority of the members serving on the council having been appointed. The vacancy shall be filled in the manner provided by this subdivision.

(2) The city council may call an election to fill the vacancy, to be held on *the date of the next regular municipal election*, the next regularly established election date, *or on a date established for a special election to be held for the purpose of filling a vacancy in an elected city office* not less than 114 days after the call.

1 (3) If the city council does not call an election pursuant to  
2 paragraph (2), the vacancy shall be filled at the next regularly  
3 established election date.

4 SEC. 11. Notwithstanding Section 17610 of the Government  
5 Code, if the Commission on State Mandates determines that this  
6 act contains costs mandated by the state, reimbursement to local  
7 agencies and school districts for those costs shall be made pursuant  
8 to Part 7 (commencing with Section 17500) of Division 4 of Title  
9 2 of the Government Code. If the statewide cost of the claim for  
10 reimbursement does not exceed one million dollars (\$1,000,000),  
11 reimbursement shall be made from the State Mandates Claims  
12 Fund.

